



# ALASKA CENTER *for the* ENVIRONMENT

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October 24, 2002

USDA Forest Service

Attn: NFS – EMC Staff (Barbara Timberlake)

Stop Code 1104

1400 Independence Avenue, SW

Washington, D.C. 20250-1104

SENT VIA FACSIMILE (202) 205-1012 AND SURFACE MAIL

Re: Notice of Administrative Appeal of the Chugach National Forest Revised Land and Resource Management Plan and Final Environmental Impact Statement.

Dear Ms. Timberlake and NFS – EMC Staff,

The Alaska Center for the Environment is submitting these comments on behalf of our organization and National Wildlife Federation, The Wilderness Society, Turnagain Arm Conservation League, Eyak Preservation Council, Alaska Rainforest Campaign, Alaska Wilderness League, Alaska Conservation Alliance, Alaska Conservation Voters, Sitka Conservation Society, Alaska Community Action on Toxics and Cook Inlet Keeper pursuant to the Forest Service Regulations contained in 36 C.F.R. part 217, submit this administrative appeal of the Chugach National Forest Revised Land and Resource Management Plan (Revised Plan) and Final Environmental Impact Statement (FEIS) issued by Dennis Bschor, Regional Forester, and published on July 26, 2002. See 67 Fed. Reg. 48894 (July 26, 2002).

This appeal concerns the following decisions of the Forest Service: (1) the failure to properly evaluate and consider “eligibility” of candidate and inventoried rivers; (2) the failure to properly consider and recommend “suitable” rivers for inclusion in the National Wild and Scenic Rivers System; (3) the failure to protect outstandingly remarkable features by arbitrarily recommending lower classifications on suitable rivers; (4) the failure to assure appropriate management and interim protection for eligible rivers in the final plan; and (5) the failure of the



Forest Service to follow the precedent set forth by Congress in the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) and establish management boundaries of one-half mile from each side of a designated river.

**I. The Forest Service improperly evaluated the eligibility of candidate and inventoried rivers.**

Like the Wilderness Act, the Wild and Scenic Rivers Act (WSRA) was born of a desire to protect and maintain some of our nation's most pristine natural assets for future generations:

It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.

16 U.S.C. § 1271. To be eligible for inclusion in the National Wild and Scenic Rivers System (System) a river must be in a free-flowing condition and possess at least one "outstandingly remarkable" river-related feature. *Id.* Once a river is determined to be eligible for inclusion, comprehensive analysis is required of its values and practicability of management for suitability. 16 U.S.C. § 1275(a).

The Forest Service is directed by Chapter 8 of the Forest Service Land and Resource Management Planning Handbook to properly evaluate rivers for inclusion in the System. FEIS 3-436. The Planner's Handbook provides a procedure by which rivers are studied. Once the Forest Service undertakes Wild and Scenic Rivers evaluations, it must comply with the APA and WSRA in making those evaluations.

Chapter 8 of the Planning Handbook provides a procedure by which rivers are studied and evaluated. First, the planners determine whether rivers on the Nationwide Rivers Inventory (NRI) and other identified rivers, lakes and streams on the forest are "eligible" for inclusion in the National System.

Chugach Forest Service planners and staff in all 3 districts<sup>1</sup>, along with the application of the Alaska Dictionary of Place Names (T.J. Holley) conducted

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<sup>1</sup> B. Behrands, S. Ketsi, D. Schmid, D. Logan, G. Lenhausen, L. Suring, M. Stubbs, S. Zemke, S. Henning, C. Huber, D. Blanchet, J. Mattson, S. Frost, D. Sherman

inventories beginning in 1995. Planners determined whether Chugach Rivers and other identified streams, lakes and headwaters on the forest were “eligible” for inclusion in the national system based on evaluation criteria in the WSRA, which requires etc. The planning team should have applied the evaluation criteria established by the WSRA, which requires that streams be free-flowing and possess, with their adjoining lands, one or more “outstandingly remarkable” scenic, recreational, geological, fish and wildlife, historic, cultural, or other value. 16 U.S.C. §§ 1271, 1273(b). The team documented the values of each river on Inventory Field Data Sheets, and then decided whether each river was eligible or ineligible.

According to the FEIS the Forest Service evaluated and examined over 760<sup>2</sup> named “and many unnamed” rivers in the Chugach National Forest to determine whether they had outstandingly remarkable features that would make them eligible for potential addition to the System. Although the Forest Service stated, “all special river-related features identified were documented on river data attribute sheets for each river,”<sup>3</sup> appellants were provided with only 398 named river data sheets<sup>4</sup> of the 760+ noted. There is no explanation in the FEIS Appendix D of the missing 362 + rivers.

Of the 398 rivers inventoried, 288 (or 72.3%) of the rivers were not fully analyzed.<sup>5</sup> Of the 100 fully analyzed rivers, the planning team found only 23 river segments eligible. Our analysis indicates that these 23 river segments contain only 82.4 miles out of a possible 8,712 miles, or 23 segments out of 11,789 named rivers and river segments<sup>6</sup>.

It is apparent that as a result of the incomplete analysis of potential wild and scenic rivers, many rivers were declared ineligible on the basis of inadequate resource information, and other rivers were declared ineligible despite having outstanding remarkable values.

#### **A. The Forest Service employed overly stringent evaluation criteria.**

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<sup>2</sup> FEIS Appendix D-2

<sup>3</sup> Id.

<sup>4</sup> According to Inventory Field Data Sheets

<sup>5</sup> River Attributes Field Data Sheets were incomplete either/or missing ratings, narratives or mention of un-inventory.

<sup>6</sup> Chugach forest-wide Freshwater “Named Streams” Data File and Item Definitions, Updated 03/30/98 “Note that there are also about 12,000 unnamed stream segments (not included in this file)” according to Bill MacFarlane, Hydrologist, Chugach National Forest in memo to Alaska Center for the Environment.

Forest Service administration policy is to avoid a restrictive approach to inventorying river values. Chapter 8 of the Planning Handbook states: "Although several rivers on a National Forest may possess values which are similar to each other, each river's values may be outstandingly remarkable when considered in the context of the State or Nation." § 8.21c.

For example, in the Copper River Delta, several rivers were not given eligible status because "they were not remarkable compared to other rivers in the area."

Our analysis of the River Attributes Field Data Sheets indicates that for many rivers *too few* outstandingly remarkable rivers requiring protective management were given ratings of regional or national significance. Out of the three districts of the Chugach National Forest, only 3 inventoried rivers were identified with a "4" rating, which indicates "regionally or nationally significant." Only 16 of the rivers inventoried were given a "3" rating for being "regionally significant."

Furthermore, the "Geographic Provinces" designated by the Forest Service improperly limited the evaluation criteria for determining eligibility. The WSRA does not limit eligibility to the best representative river; all rivers possessing outstandingly remarkable values are to be considered for potential addition to the System.

A response by Chugach Forest Supervisor Dave Gibbons to Turnagain Arm Conservation League (September 15, 1999) states 'regionally significant features qualify' for eligibility:

"The eligibility process requires the identification of special values of rivers on the Chugach and an assessment as to whether they are rare or unique within Alaska, the nation or internationally, or are there superior examples of river related values found elsewhere. In addition, the WSRA, and subsequent Congressional and agency actions support the position that, regionally significant features also qualify. For the purposes of the W&SR eligibility evaluations, the Chugach used 'geographic provinces' as the smallest land unit to be considered as a 'region.'" (emphasis added)

The Chugach is composed of 4 "geographic provinces": the "Pacific Gulf Coast Forest – Meadow Province" (M245), that includes most of the coastal forest lands across the entire Chugach and the Tongass National Forests, the "Alaska Mixed

Forest Province” (M213), that covers most of the western half of the Kenai Peninsula, the "Pacific Coastal Mountains Forest - Meadow Province" (M244), and the “Coastal Trough Humid Tayga Province” (M135).

The Chugach National Forest should *not* be included in the same geographic province as the Tongass National Forest since the Tongass did not define its geographic provinces to include the Chugach and it is inappropriate to use rivers designated in Southeast Alaska to narrow the number of rivers eligible in the Chugach.

The Tongass National Forest FEIS found 112 rivers eligible despite having 7 geographic provinces, while the Chugach National Forest FEIS found 23 rivers eligible with 4 geographic provinces. It is unreasonable for the Forest Service to determine that Chugach rivers are ineligible or unsuitable based on its earlier recommendation of suitability in Southeast Alaska, as the same geographic provinces for evaluating the regional context of a river were not used in the Tongass.

More importantly, the geographic representation criteria must not be limiting factors on eligibility or suitability by the Chugach planning team or in further studies of the forest’s rivers and lakes.

The Forest Service inappropriately concluded that that candidate rivers are ineligible based on the fact that other streams or rivers “adequately represent” values of that river within a “geographic province.” Its attempt to limit the number of rivers found eligible is contrary to the WSRA, 16 U.S.C. § 1271.

Rivers of the Chugach National Forest offer pristine, wild attributes that are nationally and regionally significant for inclusion in the Rivers System. The criteria used to determine these outstanding attributes were too limiting and restrictive. Thus a new eligibility evaluation is required.

**B. The Forest Service’s inventory data and evaluation were incomplete.**

In review of the 398 Field Data Sheets, 288 (or 72.3%) of the rivers were incomplete, most without “rating” of outstandingly remarkable values. We are especially troubled by the incomplete and inconsistent nature of data sheet ratings of rivers in the Glacier and Seward Districts.

The river and lake evaluations also fail to take in adequate analysis of the “Class I, II, III” stream evaluations conducted for the FEIS (Aquatic Ecosystems and Essential Fish Habitat 3-107). According to the FEIS, Class I streams are anadromous and high-value resident fish streams. The total miles of Class I streams in the Chugach is 3,277, broken down by 1,911 miles of the Copper River, 521 miles of the Kenai Peninsula and 765 miles for Prince William Sound.

Class I rivers and streams should have been identified for every inventoried data sheet. Consultation with the Alaska Department of Fish and Game’s “Class I” evaluated watersheds should also have been included in evaluations. According to the Planning Handbook, joint studies with State and local governments should be involved in any study or recommendations, particularly regarding wild anadromous fish streams, rivers and lakes.

High-value Class I rivers on the Kenai Peninsula require protective management to protect their productive habitats from the adverse effects of logging, new roads and shoreline development. Class I designation was not recognized in the inventories of Juneau Creek, Resurrection Creek and Quartz Creek. These wild anadromous fish streams qualify for “eligible” determinations to ensure better long-term management of their ORVs.

Field data sheets include inaccurate and incomplete information. For instance, Chickaloon River, a significant tributary feeding into Chickaloon Bay of Cook Inlet from Swan Lake near Resurrection Pass Trail, the Field Data Sheet states it “has been inventoried to a very limited extent...Swan Lake has not been inventoried...Swan Lake is very long and narrow and quite picturesque...It has spawning and rearing habitat for coho and pink salmon and a run of sockeye salmon up into Swan Lake”. This data sheet not only points out the need for further study, it also leaves out the importance of this River to Kenai Peninsula grizzly bears and the Beluga whales that feed on coho in Chickaloon Bay.

Seattle Creek, as another example, does not have a “ski train on east side” as noted in the Field Data narrative. Furthermore, it’s unique qualities as the only unroaded creek of Turnagain Arm was not included and its values were not rated as noted in correspondence to the Chugach planning team from Alaska Center for the Environment and Turnagain Arm Conservation League.<sup>7</sup>

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<sup>7</sup> Turnagain Arm Conservation League letter to USFS November 24, 1999; Alaska Center for the Environment DEIS comments December 14, 2000.

**C. The Forest Service's determinations of "ineligibility" were arbitrary and capricious.**

Of the 760 rivers evaluated for eligibility, 168 (or 42.2%) "River Attributes Field Data Sheet[s]" did not rate their potential "outstandingly remarkable values" (ORV). Despite this the lack of information on potential ORVs, the Interdisciplinary Team concluded that the rivers were ineligible.

Sixteen (16) rivers received ratings of one or more ORVs of regional or national significance, yet these rivers were found to be ineligible. These rivers include: Edwades, Eyak River Watershed, Rude River, Hinchinbrook Island, Kayak Island, Child's Glacier, Montague Island, "Beartrap" Creek, Suny Creek, Constanitine Creek, Power Creek, Katalla Slough, Nichawak River, Gravina River, Braided Creek and Lynx Creek. We request that the Forest Service reclassify these sixteen rivers and evaluate them for suitability.

Many rivers which had ORVs that were rated as a "2" for "locally significant" should have instead been rated with a "3" or "4" for regional significance. We request that the rivers in Addendum A, i.e. those with at least one or more outstandingly remarkable value, be reevaluated for eligibility.

**D. Forest Service unreasonably refused to reconsider earlier "Ineligibility" decisions.**

The public asked the Forest Service during the planning process to reconsider its evaluations of several rivers determined to be "ineligible." The ROD and Final Plan denied the request and we appeal the denial.

For example, the Resurrection River, was an incompletely inventoried river. Several groups and individuals commented during the revision process that because the ineligible finding was not justified the river required further study. Turnagain Arm Conservation League pointed out that as the southwest bank of the river is the Kenai Fjords National Park boundary, wild river eligibility would be compatible with the management of the adjacent park lands.<sup>8</sup>

The Forest Service responded "the only reason we can determine to explain why the planning team failed to include this river in its eligibility list is that it lies along the border of Kenai Fjords National Park. The Resurrection River is the only

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<sup>8</sup> Turnagain Arm Conservation League letter to USFS, August 8, 1999.

stream on the Kenai Peninsula with an extensive riparian coastal forest ecosystem. The upper portion of the corridor is an important brown bear corridor. ... Wild designation above the bridge and scenic designation below the bridge would be compatible with the management of adjacent National Park lands and enhance their value.” (File Code: 1920-6 DRAFT). This response indicates that the river is in fact eligible. There is simply no justification for the decision to find this river ineligible.

No river in eastern Prince William Sound was found eligible for inclusion in the Wild and Scenic River system. The finding that Gravina River is ineligible is arbitrary, since it is clearly contradicted by most of the narrative on the Field Data sheet, and several public comments requested its primitive nature be protected.

#### **E. Rivers marked “illegible” made it to eligible list.**

According to the River Data Sheets prepared by the planning team, the following nationally and regionally significant rivers and lakes were marked “ineligible” but still made it to the “eligible” list in the DEIS: Palmer Creek, Kenai River, Cascade Creek, Martin Glacier, Martin River and Lake, Alaganik Slough and Tributary.

The examples discussed above demonstrate that the process for eligibility decisions was inadequate and arbitrary. Therefore, we ask the Forest Service to reconsider, at a minimum, the eligibility of the following rivers, streams, glaciers, and lakes: Edwades, Eyak River Watershed, Rude River, Hinchinbrook Island, Kayak Island, Child’s Glacier, Montague Island, “Beartrap” Creek, Suny Creek, Constantine Creek, Power Creek, Katalla Slough, Nichawak River, Gravina River, Braided Creek and Lynx Creek and those specifically listed in Addendum A.

## **II. The Forest Service improperly evaluated the suitability of eligible rivers.**

Of the 23 river segments identified by the Forest Service as eligible for inclusion into the Rivers System--including glaciers, lakes and arbitrarily segmented rivers--merely nine segments of six rivers have been recommended for designation in the Revised Plan, none within the Copper River Delta geographic region. ROD 18. The Forest Service overlooked the stated goal of the plan, the requirements of the law, and the outstandingly remarkable values of rivers and streams in the Chugach National Forest in making this determination.



The purported goal of the Revised Plan was to “[r]ecommand a set of Wild and Scenic Rivers for designation that is representative of the full range of biology and geography of the Chugach.” FEIS Appendix A-1. Yet there were no rivers recommended for designation in the “Coastal Trough Humid Tayga Province” (M135) and only a short segment of lower Nellie Juan River was included the “Pacific Gulf Coast Forest – Meadow Province” (M245), which is composed all the coastal forest lands in Prince William Sound and the wetlands of Copper River Delta, extending south to include the Tongass National Forest.<sup>9</sup> See FEIS Appendix A. There is no justification for finding only nine (9) river segments suitable for inclusion in the National Wild and Scenic Rivers System.

The decision of the Forest Service to not recommend as suitable a number of the eligible rivers in the Copper River Delta geographic area was based on a misconception of how designation would affect the wildlife and fishery management goals for ANILCA 501(b) lands. In determining that the Bering River, the Martin River and Lake, and the upper and lower segments of the Copper River were not suitable for designation as Wild, the Forest Service pointed, in part, to concern that the designation would interfere with fish and wildlife habitat management. See ROD Appendix A. This reason is not supported by the explanation given or supportable under the law.

Under the WSRA, a river is included in the System based on its “outstandingly remarkable scenic, recreational, geologic, *fish and wildlife*, historic, cultural, or other similar values.” 16 U.S.C. § 1271 (emphasis added). In determining the eligibility of the upper and lower Copper River, the Bering River, and the Martin River and Lake, the Forest Service counted the fisheries values of the three areas among their outstandingly remarkable features. FEIS 3-441. Rivers of the Copper River Delta system account for the greatest documented miles of essential fish habitat across the forest particularly for Coho, Cutthroat, Dolly Varden, and Sockeye. FEIS 3-105. Wildlife was included as an outstandingly remarkable value associated with the lower Copper River and was discussed as part of the recreational value of the lands adjacent to the Bering River and Martin River and Lake. See FEIS Appendix D.

The Forest Service should have recommended a much broader range of rivers as suitable. The Forest Service acted arbitrarily and capriciously in determining that only nine of the 23 eligible river segments were suitable for the protective designations as either Wild, Scenic, or Recreational Rivers, as its

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<sup>9</sup> The lower 9.6 miles of the Nellie Juan River is within a recommended Wilderness area in Western Prince William Sound

rationale was inconsistent and flawed. Therefore the appellants respectfully request that the Chief of the Forest Service review the suitability analysis of the 23 eligible rivers, and modify the Revised Plan to comply with the law and to reflect the goal of the Forest Service to recommend rivers representative of the broad biologic and geographic values of the Chugach by recommending those river segments that should have been found suitable for inclusion at their highest level of inventoried classification.

### **III. The Forest Service failed to protect ORVs by arbitrarily recommending lower classifications on suitable rivers.**

While the Forest Service relied on the high percentage of adjoining lands under private ownership on the upper Copper River, this is not true of the lower Copper River area. Indeed, while the entire inventoried length of the Copper is classified as “wild,” the lower section is managed almost entirely by the Forest Service. Furthermore, the Planning Handbook points out that while suitability determinations involve a balancing act of the relative values of the river and its adjoining lands, it also includes practical consideration of the feasibility of administration of the river corridor as a component of the system. Certainly management of 501(b) lands meets this administration feasibility determination.

The designation of the Copper River, Katalla, Martin or Bering Rivers would not affect the Forest Service’s ability to manage for fish and wildlife under the 501(b) directive of ANILCA, rather it would enhance their directive to manage the region for the conservation of fish and wildlife and their habitats as the primary purpose. Wild River management of these outstandingly remarkable, free-flowing primitive rivers and lakes would be complimentary to the management of 501(b).

The Forest Service and other federal agencies are given a great deal of latitude in managing and administering rivers designated for inclusion into the System. Management plans for designated rivers may vary based on the attributes of the area. “[T]he controlling principle is that the agency has substantial discretion to manage the river area, in light of its special attributes, to further the purposes of the WSRA.” Sierra Club v. United States, 23 F.Supp.2d 1132, 1140 (N.D. Cal. 1998). The agency is simply required to administer the designated river in such a way as to protect and enhance the values which led to its inclusion in the system, so long as such management does not substantially interfere with the public use and enjoyment of the river’s outstandingly remarkable values. 16 U.S.C.

1281(a). The Wild and Scenic Rivers Act requires that the outstandingly remarkable values of designated rivers are to be protected and enhanced, and “that uses which are *consistent with* such protection and enhancement *and* do not substantially interfere with public use and enjoyment of the river ORVs, should not be limited.” Oregon Natural Desert Association v. Singleton, 47 F.Supp.2d 1182, 1192 (D.Orgeon 1998) (emphasis in original). Therefore, since fish and wildlife are counted either as outstandingly remarkable values or discussed as elements of the outstandingly remarkable recreational values of these three river segments, fish and wildlife habitat management would not be curtailed by designation. The Forest Service cannot rely on the increased protection given to the area by the 501(b) designation to justify less protections for these rivers.

The flaws in the Forest Service’s rationale in conducting the suitability analysis extend beyond the Copper River Delta geographic area. For instance, in the Prince William Sound geographic area, the Forest Service decided not to recommend the Cascade Creek, the Columbia Glacier and the Coghill River based, in part, on the belief that these river segments would be adequately protected by the surrounding Wilderness or Wilderness Study Area prescription. On the other hand, in deciding to recommend the lower portion of the Nellie Juan River for classification as wild, the Forest Service reasoned that the designation was appropriate as it was consistent with the surrounding Wilderness prescription. ROD Appendix A-12, A-6. In contrast, the management decision for *not* recommending the Martin River and Lake as Wild or Scenic states: “it’s remarkable values, water quality and free-flow would likely be protected with the application of the 501(b) –1 management area prescription.” (emphasis added) ROD Appendix A-13

These rivers, most with primitive shorelines and many outstandingly remarkable values clearly meet the requirements set forth in the Wild and Scenic Rivers Act. We incorporate here by reference the entire administrative appeal of the Sierra Club, which contains more detail about the flaws in the suitability determinations for each of these rivers.

The Snow River analysis illuminates a flaw in the Forest Service’s decision on WSRA suitability. The entire length of Snow River is eligible for Wild designation. In designating only the “upper” 14.7-mile section of the Snow River as Wild, the Forest Service pointed to the remote nature of the segment. ROD at Appendix A-5 (“Because the upper section is so remote, I felt it best to recommend that section for a wild designation to protect its wild character.”). This rationale

demonstrates a misconception about the purpose of designation and the significance of the Wild and Scenic Rivers Act. Designation of river segments as Wild, Scenic, or Recreational is to protect and preserve these areas for future generations. 16 U.S.C. § 1271. Therefore it follows that the river segments most suitable for protective designations, are those river segments most in danger of losing their pristine qualities. The entire eligible 23.8 miles of the Snow River should receive Wild river status, not just those portions that are likely to remain Wild without designation or management by the Forest Service.

This same flaw for suitability classification is found in the final recommendation for Lower Russian River and Sixmile Creek<sup>10</sup>, both were recommended as suitable for Recreational, but eligible for Scenic. Both these river segments have outstandingly remarkable values for fish, wildlife, recreation, and more. Most importantly these rivers have shorelines that are undeveloped and, in some cases, primitive in nature, which makes them classified as suitable for Scenic designation. To protect the outstanding values of these rivers, the 5.7-mile segment of Sixmile and the 4.9-mile lower segment of the Russian River should receive Scenic river status.

This is illustrated by the decision to reduce the classification of the lower Russian River from Scenic to Recreational. Note that in the ROD at A-5 the Forest Service states: "The lower river inventoried classification is scenic" while the determination, states: "2. Classification of the lower portion of the Russian River as recreational is consistent with the current and future expected patterns in the area. A recreational classification would allow some development of recreation facilities and new trails to accommodate river users." Moderate facilities and trail access also could be provided under a Scenic designation with fewer impacts to the outstanding resources of the area, notably the Kenai Peninsula Brown Bear, a species of Special Concern. The Recreational classification does not provide the highest level of protective management for the Scenic values of this Class I river. The river requires Scenic management to ensure protection of its outstandingly remarkable wildlife values.

The Forest Service's decision to lower an eligible river's classification from Wild to Scenic, or Scenic to Recreational is arbitrary and capricious. To lower an eligible river's classification to maintain perceived options for speculative future

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<sup>10</sup> Note in the ROD Sixmile Creek was recommended for the 5.7-mile segment to be classified as Scenic. An Errata sheet was subsequently included in the ROD document reducing the river's protection in the final decision to Recreational. (ROD, Appendix; Errata Sheet for Record of Decision for Final Impact Statement)

development on private land that would reduce the outstandingly remarkable values of the river is unwarranted.

We urge the Forest Service upgrade the classification of the following suitable rivers: Twentymile, East Fork Sixmile, Snow River (Lower), Russian River (Lower).

#### **IV. Forest Service failed to provide interim protection for eligible and candidate rivers in the 501(b) area.**

As noted by the U.S. Department of Interior, the multiple use activities allowed under the Forest Service's preferred ANICLA 501(b)-2 prescription are inconsistent with the conservation of fish and wildlife resources and their habitats, and will interfere with the primary purpose of managing the area<sup>11</sup>. This 501(b)-2 management is a threat to the ORVs of eligible rivers that lie within the management area, such as the lower Copper River and Alaganik Slough. The agency has more reason to protect and ensure the outstandingly remarkable features of these rivers and recommend them to Congress as suitable for the Rivers System.

The Regional Forester's decision is even more astonishing when compared with the basis for his decision finding the Martin River and Lake<sup>12</sup> unsuitable. The Regional Forester concluded this river system should be recommended as "unsuitable" because:

- "1. Its outstandingly remarkable values, water quality and free-flow would likely be protected with the application of the 501(b)-1 management area prescription.
2. There was considerable opposition to congressional designations in Cordova, because residents felt that future options for management of fish and wildlife habitat may be curtailed with such a designation." (emphasis added) ROD Appendix A-13

First, the 501(b)-1 management prescription is not protective enough for the Martin River and Lake as is outlined in the FEIS:

"Suitability Factor #3... *Effects of Non-designation*: Outstandingly remarkable scenic, recreational, geologic features, and fisheries could be

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<sup>11</sup> DOI Comments to the Preferred Alternative, page 3 of 41.

adversely affected if the river were not designated as a Recreational River<sup>13</sup>. Potential timber harvest in or adjacent to the river corridor in Alternatives A, B and No Action would likely be visible from the corridor.” FEIS Appendix D-81

The proposed access road to Chugach Alaska Corporation inholdings, depicted by the Forest Service in all alternatives, was granted for the Martin River corridor. The FEIS fails to give comprehensive analysis on the effects this road corridor would have on the ORVs of the Martin River and its related tributaries. Clearly this threatens the wild eligibility of the river, characteristic noted in the Suitability Factor #1:

"The scenery and visual features of the Martin River are regionally and nationally significant with high relief and steep snowcapped mountains at the headwaters of the river and along sides of this major drainage . . . . Recreational values of the area are regionally and nationally significant . . . . The Martin River area is a river of pristine quality. It is located on the East Delta, is remote, with wilderness character and is undeveloped. This river system is the 'heart' of the east delta. It provides opportunities for 'primitive' recreation experiences of high quality along the entire length of river . . . . It has exceptional overall fisheries habitat quality."

Management under the ANCILA 501(b)-1 area does not manage the area for its primary purpose, ensuring the conservation of the river habitat of fish and wildlife resources in the area. We appeal the decision by the Forest Service that the 501(b)-1 area would “likely” protect the free-flowing nature and ORVs of the eligible rivers under this management prescription and urge to Forest Service to reconsider their suitability to ensure the protection of their outstanding features in the System.

Secondly, the Regional Forester inappropriately relied on the stated reason that “most Cordova residents” opposed congressionally designated wild and scenic rivers based on “options for management of fish and wildlife habitat may be curtailed with such a designation.” In fact, the public record shows that 64 of the 102 different Cordovans that commented supported wild and scenic rivers and/or congressionally-designated wilderness for areas of the Copper River Delta and Prince William Sound, notably Martin River and Lake, Katalla, Bering and Copper Rivers<sup>14</sup>. Furthermore, it is not appropriate to rely on an unfounded fear of effects from congressional designation. Fish and wildlife values have to be maintained an

<sup>13</sup> The Martin River and Lake's 20.3 miles are eligible for wild, 3.4 for scenic

<sup>14</sup> Public Comments to Chugach Draft Revision Plan.

enhanced under a W&S river designation. The Forest Service cannot fail to make a recommendation because a commenter misunderstands the legal consequences of designation.

**V. The Forest Service failed to enact the precedent set forth by Congress in the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) and establish management boundaries of one-half mile from each side of a designated river.**

To better manage the sensitive corridors of wild and scenic rivers, we request that the Forest Service change their policy to manage the 320 acres (or ½ mile) per side of the river rather than the current 160 acres translates (or ¼ mile) river corridor boundary.

**Conclusion**

Alaska Center for the Environment, National Wildlife Federation, The Wilderness Society, Turnagain Arm Conservation League, Eyak Preservation Council, Alaska Rainforest Campaign, Alaska Wilderness League, Alaska Conservation Alliance, Alaska Conservation Voters, Sitka Conservation Society, Alaska Community Action on Toxics and Cook Inlet Keeper hope that the management and protection of the Chugach National Forest's outstanding natural resources--notably its wildest rivers, lakes, and streams--will be preserved for future generations.

We look forward to working with you further to evaluate and preserve the forest's potential wild and scenic rivers.

Cordially,



Michelle Wilson  
Program Coordinator

cc: Dennis Bschor, Regional Forester  
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## **Addendum A.**

In addition to the sixteen rivers noted in Section I, we request that the following rivers be reclassified as eligible. Data sheets were incomplete for most of the following rivers, or they were arbitrarily rated as a "2" and we find their outstanding values are of regional significance and deem further inventory.

(\*) Rivers are those specifically recommended for eligibility in the revision process

("") Are taken from individual River Attributes Field Data Sheets (USFS 1995)

**Allen River & tributary:** "Lower portion on Native lands...available for conveyance (as of 6/95)" [Historically values were not rated, but described in Description.]

**Bedrock Creek** – "Location of Resurrection Pass Trail which is a National Recreation Trail. ... 'manage the entire trail to be compatible with the wilderness objectives.'"

**\*Bench Creek, including Bench Lake** – "A runnable river with Class-IV and V rapids with a 60 foot water fall. Coho salmon are found in the lower section of the river (locally significant historic resource value)." Bench Creek is a swift, clearwater stream that drops off Johnson Summit with the help of an exceptionally scenic waterfall readily visible from the nearby Johnson Trail. For its entire length it runs parallel to the Johnson Trail, a segment of the Iditarod National Historic Trail. Wild river status would offer an increased degree of protection for the trail.

**Campbell (Bering Lake Complex)** - These rivers drain the extensive Bagely Icefield and Bering Glacier system. They represent a unique river complex subject to extraordinary washout events unlike any other known on the planet. These enormous glacial bursts change the biological and physical structure of the rivers system. They have significant scientific interest due to their hydrological events, while the rich Controller Bay estuary supports, since the Exxon oil spill, a significant population of sea otters – a population devastated by the spill. This area has a history of cultural important to both Chugach and Tlingit peoples.

**Chickaloon River** - The Field Data Sheet states it “has been inventoried to a very limited extent...Swan Lake has not been inventoried...Swan Lake is very long and narrow and quite picturesque....It has spawning and rearing habitat for coho and pink salmon and a run of sockeye salmon up into Swan Lake.” This data sheet not only points out that the need for further study, it also leaves out the significance of this River to Kenai Peninsula Brown Bears and the Belugas in Chickaloon Bay that depend on the coho.

**Coeur d’Alene Creek** – “It is un-inventoried for cultural resources... It’s eligible for the National Register, but has not been evaluated.”

**Crescent Creek** – “...considered for National Scenic Area Designation, and has been considered for hydro (?), Crescent Creek campground near mouth, placer mining as well as recreational gold panning”

**Dick Creek (Bering Lake Complex)** – “Fisheries habitat is a ‘3’ when combined with other streams flowing into Bering Lake.”

**\*Fidalgo** - Set in an intact (unlogged) river in eastern Prince William Sound, the Fidalgo is a major salmon stream and essential food source for the area’s brown bears. As a brown bear concentration area, the river could serve as a bear viewing area similar to Pack Creek and Anan River in the Tongass National Forest. The estuary also contains archaeological resources of national significance.

**\*Gandil River and Tributary (Bering River & Lake Complex):**  
“Outstanding scenery; popular for hunting; High coho producer;... The Gandil is beautiful ... Mainly unique because of its abundant wildlife and outstanding scenery. (\*BOB I need info on how it compares to others in the region and rating)” [note- more information was not given, further study is needed]

**\*Granite Creek** – “Class II runnable during high water (regionally significant resource value).” Granite Creek is a swift, clearwater stream that offers class II-III whitewater and is a key tributary of Sixmile/Sixmile East Fork. From headwaters to the bridge, the riparian zone is undeveloped, taking the river traveler down a delightful natural corridor. It is road-accessible at put-in and take-out. Its lower half, from where it reaches timberline just above Bertha Creek, is hidden from the highway until the highway bridge just above the Granite Creek campground.

**\*Gravina River** – “Big producer in intertidal floodplain, .... Is not necessarily ‘unique’ with regards to scenery compared to other mainland rivers and streams in eastern PWS, but it is a good representation of typical mainland river system for the Sound. Since most of the drainage is ‘hidden’ from view from the Bay, it has a wild, ‘surprise’, character. The lower point is unique or outstandingly remarkable from a recreation standpoint since it provides a kayak portage between Port Fidalgo and Port Gravina. This portage is one of two such portages in eastern PWS. Entire drainage is National Forest System land so is open to public access. Only accessible by foot via place or boat from Fidalgo or Gravina.” Furthermore, we find the Gravina River watershed is unique in being the only remaining large watershed between the Copper River Delta and Valdez that has not been clear-cut. Protecting the river, the heart of this watershed, would assist the eventual long-term recovery of the degraded lands surrounding it. Protection of the river is also compatible with the management intent for adjacent EVOS lands managed by the USFS. Brown bears in this area have been hunted profusely; they should now be protected. One important way for this to happen is to designate the river, with its important chum salmon spawning grounds and close the river to bear hunting as part of the designation. Nationally significant values of the Gravina River include its pristine forest setting, and archaeological values at the estuary.

**Green Island** (all flowing waters on): “Great view from FS cabin...handicap access ...Bald eagle nest trees...fox farm...evidence of prehistoric use.” We find the ORV of this Prince William Sound Island regionally significant.

**Hanning Creek** – “Spectacular waterfalls, variety of vegetation, landscapes....30 ft uplift in 1964 quake... Good representation of island stream on inside of Montague Island.”

**Heney Ridge West Watershed:** “Hartney Bay used by shorebirds during spring migration... Trail being constructed along Hartney Creek. Fleming spit used for fishing/camping”

**Kenai Lake** – More study of its ORV are needed. Inventory incomplete.

**Moose Creek (3)** – “Very scenic, difficult to access. .... Un-inventoried.”

**Nichawak** - "high producer of fish"

**Quartz Creek** – "lower 4-5 miles are a spawning area for kings, coho, dolly, sockeye, chums, pinks, whitefish [not common], Kenai Lake sockeye"

**\* Resurrection Creek.** "It is one of the largest non-glacial drainages in the Chugach. ...The gold panning popularity is based on several factors. Once, of course, is easy access. But also, the small nuggets (geologic process) found the. Resurrection Creek is still actively "making gold"... it may merit 'scenic' or 'recreational' designations based on the unique gold panning opportunities." For most of its length it parallels the Resurrection Trail, which is a unit of the National Trail System. Although an easy class 2 for most of its length, it has two class 4 canyons in its lower stretch. Despite being heavily placer-mined near the mouth, it still retains "moderate populations of salmon and Dolly Varden". Its outstandingly remarkable values include its length (at 18 miles one of the longest on the CNF); its navigability; its remarkably clear water; and it's setting in a scenic basin of wilderness quality.

**\*Resurrection River** – Further inventory is required, according to the Data Sheet. We request that the River be made eligible and suitable as Wild to Exit Glacier Rd bridge and Scenic below the bridge. For most of its length, the west (river right) side is within Kenai Fjords National Park, and hence only half of the river corridor is completely secure. Wild river status for the National Forest portion of the corridor would complete protection. The Resurrection Trail, a National Historic Trail and prehistoric trade route, parallels the river. Wild River status for the river would complement protection for the trail. The Resurrection River valley is also an important brown bear travel corridor.

**Scott Glacier** – Scenic ORV, "view of glacier" from Copper River Highway on west side of delta. Comments were received in favor of this rivers eligibility potential.

**\*Seattle Creek** - Seattle creek drains the only remaining roadless basin flowing into Turnagain Arm, thus presenting an opportunity to study natural processes in a readily accessible setting. Although portions of the creek were mined earlier in this century, the area has returned to a natural condition.

Although no roads or trails reach the stream corridor, the entire highly scenic watershed is visible from the Seward Highway across the Arm. The

stream passes quickly from alpine tundra to a dense untouched forest along the middle and lower portions. A Wild river designation would protect the outstandingly remarkable values of this stream.

**South Fork Snow River** – “un-inventoried”

**Stillwater Creek** – “Provides abundant spawning and rearing habitat. If lumped together with other streams flowing into the Bering, it would be regionally significant.”